

Contract Administration Unit

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Continuation of Pay

A benefit for letter carriers who suffer traumatic on-the-job injuries

Postal supervisors often do not have the knowledge or proper training to assist injured letter carriers in filing workers' compensation claims correctly. Additionally, their lack of knowledge often leads to pay interruptions for letter carriers who have suffered a traumatic injury.

Continuation of Pay (COP) is a benefit for letter carriers who suffer a traumatic injury and become disabled in the immediate days following the injury. COP is the continuance of an employee's regular pay for a period not to exceed 45 calendar days of disability. The intent of COP is to avoid interruption of pay while the claim is adjudicated by the Office of Workers' Compensation Programs (OWCP). COP can be paid for lost time related to a total or partial disability. Lost time for medical appointments also might be covered by COP. COP includes holiday pay and any night differential, if appropriate, for a letter carrier's normal work tour.

COP also is payable in cases where the Postal Service fails to provide limited-duty work to an injured worker who is partially disabled due to an injury and has physician-prescribed work restrictions.

To be eligible for COP, a letter carrier must: 1.) have a "traumatic injury" that is job-related and is the cause of the disability, and/or is the cause of lost time due to the need for medical examination and treatment; 2.) file Form CA-1¹ within 30 days of the date of the injury; and 3.) begin losing time from work due to the traumatic injury within 45 days of the injury.

The initial use of the 45-day period of entitlement for COP must begin within 45 days of the employee's date of injury and will be payable for 45 calendar days beginning with the first day of disability. Lost time for a medical appointment, while covered by COP, is not counted when establishing the beginning of the 45-day COP period.

The Postal Service routinely fails to properly pay COP to entitled employees and shop stewards should be proactive, ensuring that letter carriers are properly paid COP when injured. Managers who fail to provide COP are

in violation of the *Employee and Labor Relations Manual (ELM)*, Section 543.41, which states in part:

Continuation of Regular Pay

For most employees who sustain a traumatic injury, FECA provides that the employer must continue the employee's regular pay during any periods of resulting disability up to a maximum of 45 calendar days.

Shop stewards should familiarize themselves with the handbook and manual provisions that are enforceable via Article 19 of the National Agreement when it comes to ensuring proper payment of COP to injured letter carriers.

Postal regulations governing COP are found in *ELM*, Sections 545.7, 545.73 and 545.74.

Additionally, federal regulations of the Federal Employees' Compensation Act (FECA) are enforceable through the grievance procedure via Article 21.4 of the National Agreement:

Section 4. Injury Compensation

Employees covered by this Agreement shall be covered by Subchapter I of Chapter 81 of Title 5, and any amendments thereto, relating to compensation for work injuries. The Employer will promulgate appropriate regulations which comply with applicable regulations of the Office of Workers' Compensation Programs and any amendments thereto.

Federal regulations related to COP can be found in the Code of Federal Regulations (CFR) at 20 CFR 10.200-224 and in United States Code (USC) at 5 USC 8118.

To file a claim for a traumatic injury, employees must fill out and submit a Form CA-1, Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation. The best way to file a claim is to register and file the claim using the Employees' Compensation Operations & Management Portal (ECOMP), the OWCP's electronic claim filing portal. Filing electronically saves time and makes it easier to manage claims and communicate with OWCP. Employees can access ECOMP on their smartphone, tablet or computer. If they do not have a device to file a claim, the Postal Service must allow them to file their claim on a postal computer.

If employees cannot register in ECOMP, they should request a CA-1 from their supervisor. The Postal Service is required to provide them with the form upon request, which is available on their supervisor's computer. Employees who are refused a form should contact their shop steward immediately.

Injured letter carriers should complete the employee por-

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¹ While NALC strongly recommends that letter carriers always use Form CA-1, the *FECA Procedure Manual*, Chapter 2-0807.5,b provides that "The injured employee, or someone acting on his or her behalf, must provide a written report on Form CA-1 (Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation) to the employing agency within 30 days of the injury. See 20 C.F.R. §10.210(a). Another OWCP-approved form, such as Form CA-2 (Notice of Occupational Disease and Claim for Compensation), CA-2a (Notice of Recurrence), or CA-7 (Claim for Compensation on Account of Traumatic Injury or Occupational Disease), which contains words of claim, can be used to satisfy timely filing requirements."

COP (continued)

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tion of the CA-1 and be thorough in describing the cause and nature of the injury. Question No. 15 of the CA-1 allows them to choose between COP, sick leave and/or annual leave. Employees who wish to receive COP should check box “a.”

It’s important to note that Postal Service employees are not entitled to COP for the first three calendar days of temporary disability and may use annual leave, sick leave or leave without pay during that period. If the disability exceeds 14 calendar days or is followed by permanent disability, the employee may have that leave restored upon request.

Postal managers often refuse to pay COP under the false pretense of controversion (to dispute, challenge or deny the validity of the claim). However, during any attempt to controvert COP, the Postal Service must continue to compensate the employee at their regular rate of pay until a decision is rendered by OWCP. Only OWCP can make the official decision to controvert COP, and that decision will be shared with both the Postal Service and the injured employee. Any attempt to controvert COP by the Postal Service must also be shared with the injured employee.

Injured employees should be aware that they are required to submit medical documentation that supports any disability within 10 days of filing the claim. COP must be paid during this period; however, if the employee fails to submit medical documentation by the 10th day, COP

can be terminated. If the employee later submits medical documentation to support their disability, COP must be retroactively reinstated.

If an employee mistakenly chooses to use annual or sick leave when filing their CA-1, they may subsequently request COP instead of previously requested sick and/or annual leave. However, such a request must be made within one year of the date that leave is used, or within one year of the date OWCP approves the claim, whichever is later. The employee’s sick and annual leave used for the period covering the absences for the injury will be restored to the employee’s leave balance. This provision is found in Exhibit 3.5a of the *Handbook EL-505, Injury Compensation*.

Shop stewards should meticulously document any violation of the COP provisions by filing grievances. In many districts around the country, these violations are repetitive in nature and arbitrators have begun to take notice.

NALC has developed and produced much guidance on OWCP-related issues. An OWCP grievance guide, titled *Grieving Management’s OWCP Violations*, as well as several grievance starters, are available in the Members Only portal of the NALC website, nalc.org. Once in the Members Only portal, navigate to “Member Documents” and then refer to the drop-down menu under “OWCP.” For further guidance, branch officers should contact their NALC national business agent.

Director of City Delivery

Updates (continued)

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a grievance be filed. A grievance starter has been created to assist representatives in developing cases at the local level. Shop stewards in need of assistance should reach out to their regional office for further guidance and a copy of grievance starter. For more details regarding the Informed Facility initiative, read my column in the November 2023 edition of *The Postal Record*.

Canoo model Lifestyle Delivery Vehicle (LDV) 190

Also in February, the Postal Service detailed its plans to test the Canoo model Lifestyle Delivery Vehicle (LDV) 190. The Canoo LDV 190 is a battery electric commercial



off-the-shelf vehicle with almost 172 cubic feet of cargo space. USPS states that the purpose of this test is to determine how the vehicle performs on carrier routes currently serviced by Long Life Vehicles (LLV), Flexible Fuel Vehicles (FFV) and Mercedes Metris vehicles.

Testing of the vehicle will be conducted April 3 through October at the South Atlanta Sorting and Delivery Center (S&DC) in Atlanta, GA. Driver training for the Canoo LDV 190 is scheduled to begin April 1.

I will monitor these initiatives and update the membership on any effects these actions may have on city carriers. Be sure to read my article each month and visit nalc.org for the latest information.